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GREENE, TWEED & CO., INC.

**UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA**

BOYCE A. STRINGER and NANCY C.
STRINGER,

Plaintiffs,

v.

AMERICAN BILTRITE, INC., et al.

Defendants

Case No.: 2:23-cv-09813-SVW-E

**DECLARATION OF CHARLES W.
JENKINS, ESQ., IN SUPPORT OF
DEFENDANT GREENE, TWEED &
CO., INC.'S MOTION FOR RELIEF
PURSUANT TO FRCP § 60(b) AND
FOR TRANSFER TO THE NORTHERN
DISTRICT OF CALIFORNIA
PURSUANT TO 28 USC § 1406(a)**

Filed Concurrently with:

1. Notice of Motion
2. Memorandum of Points and Authorities
2. Declaration of Shannon R. Jackson

Date: January 8, 2024

Time: 1:30 p.m.

Courtroom: 10A

1 I, Charles W. Jenkins, declare:

2 1. I am an attorney licensed to practice before the United States District Court,
3 Central District of California, and Of Counsel at MANNING GROSS + MASSENBURG
4 LLP, attorney of record for Defendant, GREENE, TWEED & CO., INC. (“Greene,
5 Tweed”) in the above-entitled action. This declaration is submitted in support of Greene,
6 Tweed’s Motion For Relief Pursuant to FRCP § 60(b) and for Transfer to the Northern
7 District of California Pursuant To 28 USC § 1406(a). I have personal knowledge of the
8 facts stated herein. If called and sworn as a witness, I could testify competently to the
9 following:

10 2. On November 17, 2023, Greene, Tweed filed a notice of removal of *Boyce*
11 *Stringer, et al. v. American Biltrite Inc.*, from the Superior Court of California, County of
12 Alameda, Case No. 23CV046055, pursuant to 28 U.S.C. §§ 1442(a)(1) and 1446.
13 Unfortunately, due to a secretarial error by Shannon Jackson, the Notice of Removal and
14 related pleadings were uploaded to the United States District Court for the Central District
15 instead of the United States District Court for the Northern Central District. See the
16 concurrently filed Declaration of Shannon R. Jackson.

17 3. Greene, Tweed requests relief from the above mistake pursuant to FRCP
18 Rule 60(b) as the mistake by Ms. Jackson was excusable neglect. As stated in her
19 concurrently filed declaration mistakenly filed the Removal documents in the Central
20 District and not the Northern District.

21 4. No party will be prejudiced by the transfer of this case to the Northern
22 District. Suit is properly in federal court, and there has been no extensive pleading or
23 motion practice that would anchor the matter to the Central District. Moreover, the Notice
24 of Removal was filed on November 17, 2023, and within three (3) business days, Greene,
25 Tweed has filed the instant motion to correct the error. There is no delay in requesting
26 relief. A transfer will not significantly delay the prosecution of this case. Nor can there
27 be any dispute that Greene, Tweed’s conduct was in good faith; each pleading bore the
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1 proper caption of the intended Court, and the filing was a simple clerical error. Granting
2 transfer pursuant to Section 1406(a) would further the interests of justice, correct the
3 inadvertent mistake, and allow the case to proceed. However, denying the transfer could
4 result in Greene, Tweed being deprived of its right to remove the suit.

5 5. As a result of the mistake, inadvertence, surprise, or excusable neglect
6 indicated above, Greene, Tweed seeks to transfer this case to the Northern District,
7 pursuant to 28 USCA § 1406(a).

8 I declare under penalty of perjury under the laws of the United States and the State
9 of California that the foregoing is true and correct. Executed on November 22, 2023, in
10 Los Angeles, County, California.

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Charles W. Jenkins

CERTIFICATE OF SERVICE

United States District Court, Central District Case No.: 2:23-cv-09813-SVW-E

I, the undersigned, declare and state:

That I am employed in the County of San Francisco, State of California. I am over the age of eighteen (18) and not a party to the within action; my business address is 101 Montgomery Street, Suite 2850, San Francisco, CA 94104.

On the date set forth below, I served the following document described as:

**DECLARATION OF CHARLES W. JENKINS, ESQ., IN SUPPORT OF
DEFENDANT GREENE, TWEED & CO., INC.'S MOTION FOR RELIEF
PURSUANT TO FRCP § 60(b) AND FOR TRANSFER TO THE NORTHERN
DISTRICT OF CALIFORNIA PURSUANT TO 28 USC § 1406(a)**

on all interested parties in this action as indicated below:

☒ **BY ELECTRONIC COURT FILING (ECF):** I caused the above-entitled document(s) to be served electronically through the United States District Court, Central ECF website, addressed to all parties appearing in the Court's ECF service list. A copy of the filing receipt will be maintained with the original document in our office.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on November 22, 2023, in San Francisco, California.

/s/ Jen Merrill
Jen Merrill